

Internal Revenue Service

Department of the Treasury

District
Director

P. O. Box 2508
Cincinnati, OH 45201

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to:
EP/EO

Date: CEC 8 1987

Mr. [REDACTED] Feb 1-28-88

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure 1.

Consideration is given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]

[REDACTED]
District Director

Enclosures: 3

Enclosure I
Reasons for proposed denial of exempt status

Information submitted with your application indicates that your organization was formed on [REDACTED] 7, under Articles of Association. Your Articles of Association state that your purposes are:

- 1) Fulfillment of [REDACTED] state law regarding "Patients" rights as described in Section [REDACTED] of the [REDACTED] Revised Code.
- 2) The recommendation to the staff of [REDACTED] [REDACTED] [REDACTED], of suggested improvements in services to be offered to members of the association.
- 3) The fostering of an atmosphere of warmth and friendliness for the residents, families, and staff of [REDACTED] [REDACTED].
- 4) Providing contact for members with community-based social and charitable organizations.
- 5) The encouragement of donations, the proceeds of which will be used to provide equipment for services that will directly benefit the members of the association.

Your organization is governed by officers elected by a majority vote of the membership. The only requirement for membership in your organization is residency at [REDACTED] [REDACTED]. (hereinafter, the "Center"). There are no fees or dues charged.

Your application indicates that your organization was originally designed to fulfill the goals of safeguarding patients' rights in the Center. You have made recommendations for improvements in services to the administration and staff of the Center and you have attempted to promote a sense of "community" among your members and to be a liason between local community groups and your membership.

You are seeking recognition of exemption from Federal income tax to allow the members of your organization an opportunity to expand their capabilities as an organization and to provide for themselves equipment or services that exceed those provided by the Center. You intend to purchase specialized medical equipment that is needed by residents who are unable to pay for it, and for which no program funding exists.

The benefits, services or products of your organization will be limited to the present and future residents of the Center who would be members of your organization.

You expect to be financially supported by donations from friends, family members, or the general public. You also expect to conduct fund-raising activities.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(1)(iv) of the Regulations provides that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of any private shareholders or individuals (the words "private shareholder or individual" refer to persons having a personal and private interest in the activities of the organization.)

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest.

Based upon the evidence presented, it is our opinion that you do not qualify for exemption under section 501(c)(3) of the Code because you are not organized and operated exclusively for charitable purposes. Your organization is organized and operated for the mutual benefit of your members. Providing services to your own members is not a charitable activity nor does it serve a public interest as required by section 1.501(c)(3)-1(d)(1)(ii) of the Regulations.

The resources of organizations described in section 501(c)(3) must be devoted to a public purpose. Your activities also constitute inurement to the benefit of private individuals which is prohibited under section 501(c)(3) of the Code.

You do not meet the operational test because you are not operated exclusively for one or more exempt purposes specified in section 501(c)(3) of the Code.

You do not meet the organizational test because your Articles of Association do not limit your purposes to one or more exempt purposes specified in section 501(c)(3) of the Code.

Accordingly, it is held that you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.